



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## REGION 1

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### **MEMORANDUM**

**Date:** August 3, 2020

**To:** Olin Chemical Superfund Site File

**From:** Kevin Pechulis, Senior Enforcement Counsel, ORC

**Subj:** Olin Chemical Superfund Site, Wilmington, Massachusetts  
Proposed Plan Public Comment Period – Virtual Public Participation Measures

This memorandum explains EPA's use of virtual public participation measures with respect to the upcoming public comment period for the Proposed Plan for remedial action at the Olin Chemical Superfund Site in Wilmington, Massachusetts ("Site").

EPA Region 1 has developed a Proposed Plan for its preferred remedy for an interim action for groundwater, and a final action for soil, sediments, and surface water, at the Site. EPA is now preparing to issue the Proposed Plan on August 10, 2020, which describes EPA's preferred cleanup plan. Following issuance of the Proposed Plan, a thirty-day comment period commences (August 26 through September 26, 2020), during which time EPA will accept public comment on the proposed remedial action. Pursuant to Section 117(a)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9617(a)(2), the Region must provide a "reasonable opportunity for submission of written and oral comments and an opportunity for a public meeting at or near the facility."

At present, the United States is under a national public health state of emergency (declared on March 13, 2020) due to the spread of COVID-19.<sup>1</sup> Similarly, on March 10, 2020, the Commonwealth of Massachusetts declared a state of emergency due to COVID-19 in Executive Order No. 591. Massachusetts has issued a series of emergency orders that provide for various restrictions on activities, gatherings, and travel into the Commonwealth to address the crisis and stem the spread of the disease. On March 23, 2020, and June 6, 2020, Massachusetts issued emergency orders prohibiting gatherings of more than 10 people. On May 18, 2020, June 6, 2020, and July 2, 2020, Massachusetts issued emergency orders initiating a progressive, phased plan for re-opening workplaces and other facilities across the Commonwealth. As of July 2, 2020, pursuant to COVID-19 Order No. 44, Second Revised Order Regulating Gatherings Throughout the Commonwealth, which rescinded the March 23 and June 6, 2020 emergency orders noted above, for indoor gatherings not subject to the sector-specific phased re-opening rules, "indoor gatherings are limited to 8 persons per 1,000 square feet of accessible, indoor floor space, and never more than 25 persons in a single enclosed, indoor space." Subject to certain

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<sup>1</sup> On January 31, 2020, the Health and Human Services Secretary, Alex Azar, declared a public health emergency for the entire United States due to COVID-19. On March 13, 2020, President Trump declared a national emergency due to COVID-19.

exemptions, which do not appear to apply to a Superfund public meeting held in a school auditorium, gatherings that are subject to these limitations include, without limitation, “community, civic, public, leisure, sporting events, concerts, conferences, conventions, fundraisers, fairs, festivals, and other similar events or activities.”<sup>2</sup> Additionally, on July 24, 2020, Massachusetts issued COVID-19 Order No. 45, Order Instituting a Mandatory 14-Day Quarantine Requirement for Travelers Arriving in Massachusetts, which adopted a mandatory 14-day quarantine for travelers (including residents of Massachusetts) arriving in Massachusetts, subject to limited exemptions, effective August 1, 2020. Accordingly, it appears that an “in-person” public meeting near the Site in Massachusetts would not be permissible while these emergency orders are in effect. In addition, EPA Region 1 is presently encouraging all employees to “telework” consistent with Phase 1 of the Opening Up America Guidelines issued on April 16, 2020 by the White House and Centers for Disease Control and Prevention.

It is uncertain how long the United States and Massachusetts will remain in a state of emergency, and how long some or all of the activity restrictions currently imposed in Massachusetts will continue in effect. Attempting to hold an in-person public hearing and informational meeting with the current restrictions and related health risks presents a number of challenges and would likely result in postponing the issuance of the Proposed Plan. To move ahead with the Proposed Plan, the Region has decided to hold a virtual informational meeting for community members to learn about the proposed cleanup plan and ask questions and a virtual public hearing. A stenographer will record all offered comments during the hearing. The Region has also established a dedicated voice mailbox to receive oral comments during the comment period.

The Region’s decision to conduct the virtual public meeting and virtual hearing avoids delay and furthers a core goal of the Superfund Program, i.e., to perform timely cleanups of hazardous waste sites. The public outreach and virtual public meeting plans are expected to be consistent with EPA’s current guidance regarding public engagement in light of the issues and circumstances noted above, including the EPA Office of General Counsel’s memorandum dated April 16, 2020, “Virtual Public Hearings and Meetings” and “CERCLA Interim Guidance on Public Engagement During COVID-19 (For Regional Superfund Site Teams),” dated April 28, 2020.

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<sup>2</sup> Executive orders from the Commonwealth of Massachusetts can be viewed on the website of the Office of the Governor at <https://www.mass.gov/info-details/covid-19-state-of-emergency> (accessed July 31, 2020).